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Docket No. 4303-4050US2**REMARKS**

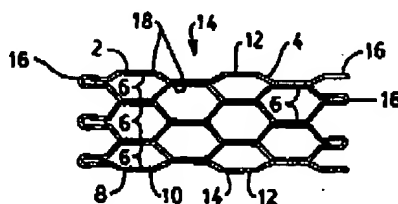
Claims 58-63 and 65-88 are pending in the present application. The Examiner has allowed claims 62, 63 and 80-84. Claims 65, 66, 68, 69 and 85-88 have been amended. No new matter has been added by these amendments.

Applicants respectfully request favorable consideration in light of the preceding amendments and following remarks.

Claims 58-61, 65-79 and 85-88 were rejected under 35 U.S.C. §102(b) as being anticipated by Simon et al. (USP 5,354,308). Claims 62, 63 and 80-84 were allowed.

Applicant respectfully traverses this rejection and submits that claims 58-61, 65-79 and 85-88 are patentable over Simon et al. Simon et al. discloses a self-expanding stent that is adapted to maintain (1) a relatively rigid expanded condition when deployed at the treatment site and (2) a flexible compressed condition when being delivered through the vasculature to the treatment site. Simon et al. discloses the following three embodiments.

The first embodiment illustrated in Figure 2 (reproduced below) consists of a stent having proximal and distal rows of cells with finger portions 16.

**FIG. 2**

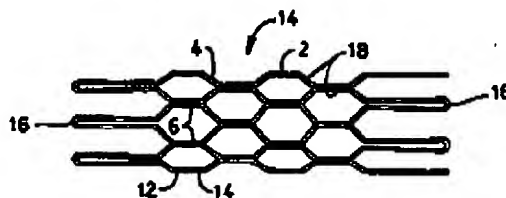
Disposed between the proximal and distal rows of cells is a body portion 14 consisting of two rows of symmetrical hexagonal cells having no finger portions 16. As expressly stated in Simon

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et al., the finger portions 16 “facilitate a gradual reduction in radially outwardly extending pressure exerted by the stent” on the vasculature wall. Col. 3, lns. 29-32. Simon et al. further states that the body portion 14 of the stent “having the mesh construction exercises a substantially greater radial bias than do the finger portions 16.” Col. 3, lns. 51-54. Accordingly, the first embodiment shown in Figures 1 and 2 discloses a stent having distal and proximal end rows of cells that exert substantially less radial force than the intermediate rows of cells disposed therebetween. This is directly opposite of the present invention.

Figure 3 (reproduced below) illustrates an alternative embodiment to that shown in Figures 1 and 2 wherein the finger portions 16 in the proximal and distal end rows of cells are lengthened to provide even less radial force than the intermediate rows of cells disposed therebetween.

**FIG. 3**

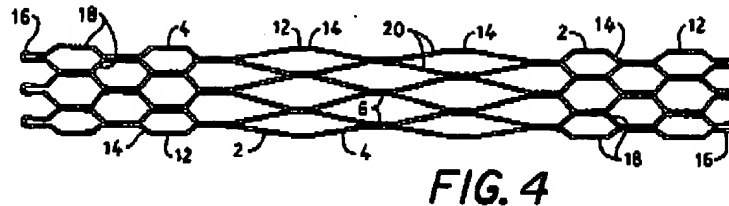
Accordingly, this embodiment is even further removed than the first embodiment from the present invention.

Figure 4 (reproduced below) illustrates a second alternative embodiment consisting of (1) proximal and distal end rows of cells having finger portions 16, (2) two rows of cells adjacent each of the proximal and distal end rows of cells that exert substantially more radial force than the proximal and distal end rows of cells and (3) an intermediate portion having a plurality of rows of elongated cells 20 that exert less radial force than the three distal most and

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proximal most rows of cells.



**FIG. 4**

While the Examiner's rejection starts by referring to the disclosure in Figures 3 and 4 of Simon et al., it appears that the rejection is based solely on the second alternative embodiment shown in Figure 4. In the rejection, the Examiner asserts that the distal most and proximal most rows of cells having finger portions 16 are adapted to exert greater radial force and are adapted to be more flexible than the rows of cells 20 in the intermediate portion of the stent. In support of this assertion, the Examiner cites the disclosure at Col. 3, lns. 35-39 and 54-60 which provides that (1) the proximal and distal rows of cells having the finger portions 16 exert less radial force than the two adjacent rows of cells 18 and (2) the intermediate portion of the stent formed by elongated cells 20 exerts less radial force than the two adjacent rows of cells 18.

Contrary to the Examiner's assertion, Simon et al. contains no disclosure whatsoever comparing the relative radial forces exerted by the cells disposed in the proximal most and distal most rows of the stent and the elongated cells 20 disposed in the intermediate rows of the stent. Simon et al. only discloses that "when it is desired to have more force near the ends of the stent than at its center, the embodiment shown in FIG. 4 may be used." Col. 3, lns. 54-55. (emphasis added) With reference to the embodiment shown in Figure 4, Simon et al. goes on to state that "the central portion of the tubular body portion 14 includes elongated cells 20

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exercising less radial force than the cells 18.” Col. 3, lns. 57-60. Taken together these two passages merely state that the elongated cells 20 exert less radial force than the cells 18 disposed in the two adjacent rows “near” the stent ends, not the cells disposed in the proximal most and distal most rows “at” the stent ends.

In addition, contrary to the Examiner’s assertion, Simon et al. does not contain any disclosure regarding the relative flexibility of the cells disposed in the various rows of the stent shown in Figure 4. Indeed, Simon et al. lacks any disclosure regarding the relative flexibility of the cells disposed in the various rows of any of the stent embodiments disclosed therein. To the contrary, Simon et al. discloses that each of these rows of cells are formed of a single wire 4. Accordingly, one of ordinary skill in the art would understand that there is no difference in the flexibility of the various rows of cells that form the stent. This is consistent with the fact that Simon et al. discloses that when the disclosed stents are in the expanded condition the entire stent is relatively rigid.

The Examiner also asserts that the finger portions 16 of the cells disposed in the proximal most and distal most rows of the stent render these cells more flexible than the symmetrical hexagonal cells 18 in the two adjacent rows of the stent. Applicant respectfully submits that this is unfounded speculation and is contradicted by the express disclosures in Simon et al. First, Simon et al. contains no disclosure regarding the relative flexibility of the cells 18 having the finger portions 16 and the symmetrical hexagonal cells 18 in the two adjacent rows of the stent. Second, one of ordinary skill in the art would understand that by virtue of the acute bend at the tip of each finger portion 16 and the close proximity of the wire lengths forming each finger portion 16 (resulting in a greater proportion of wire per unit area than the

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symmetrical hexagonal cells 18) the cells in the proximal most and distal most rows of the stent shown in Figure 4 would be less flexible than the symmetrical hexagonal cells in the adjacent two rows of the stent.

Finally, the Examiner's assertion regarding the comparative flexibility of the cells containing finger portions 16 in the proximal most and distal most rows of the stent and the symmetrical hexagonal cells 18 in the two adjacent rows of the stent is not even relevant to any limitation of the rejected claims. Claims 58-61 and 70-79 specify that the cells disposed in the row(s) at the proximal and/or distal ends of the stent are adapted to exert greater radial force and are adapted to be more flexible than the cells disposed in the rows in the central section. The Examiner's rejection is based on the assertion that the elongated cells 20 constitute the "cells disposed in the rows of the central section," not the symmetrical hexagonal cells 18 in the two rows adjacent the proximal most and distal most rows of cells. Therefore, the Examiner's assertion regarding the relative flexibility or bendability of the cells in the proximal and distal most rows of the stent and the symmetrical hexagonal cells 18 in the adjacent rows of the stent is irrelevant to the patentability of the subject matter recited in claims 58-61 and 70-79.

With regard to claims 65-69 and 85-88, the Examiner has asserted that the embodiment shown in Figure 4 of Simon et al. discloses diagonal lengths of cells 18 which correspond to the claimed first set of strut members and diagonal lengths of cells 20 which correspond to the claimed second set of strut members. The Examiner further asserted that the diagonal lengths of cells 18 are coupled to adjacent diagonal lengths of cells 18 by finger portions 16 which correspond to the claimed structures extending generally in the longitudinal direction. The Examiner also asserted that the finger portions 16 are more flexible than the

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straight lengths coupling the diagonal lengths of cells 20.

Applicant has amended claims 65, 66, 68, 69 and 85-88 to more clearly define the subject matter of the present invention. Applicant respectfully submits that claims 65-69 and 85-89, as amended, are not anticipated by the stent structure disclosed in Simon et al. for the following reasons. First, Simon et al. does not disclose a first type of circumferential band having short strut members that is coupled to an adjacent second type of circumferential band having longer strut members by a structure that is more flexible than the structure connecting adjacent second types of circumferential bands. As set forth above, Simon et al. contains no disclosure regarding the relative flexibility of different portions of the stent structure. Accordingly, there is no support for the assertion that the structure connecting a first type of circumferential band with an adjacent second type of circumferential band is more flexible than a structure that couples adjacent second types of circumferential bands. In addition, with regard to claims 85-88 Simon et al. does not disclose a stent having a first type of circumferential band at either the proximal or distal end of the stent.

#### CONCLUSION

Based on the foregoing amendments and remarks, applicant respectfully submits that the pending claims in the present application are in condition for allowance.